

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0492-01
Bill No.: HB 159
Subject: Crimes and Punishment; Courts; Prisons and Jails; Telecommunications
Type: Original
Date: February 22, 2011

Bill Summary: This proposal allows for house arrest with electronic monitoring or shackling for certain nonviolent offenders and requires the reimbursement of the total cost of house arrest by the state in certain cases.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue Fund	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Office of the State Public Defender** and the **Boone County Sheriff's Department** each assume the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from 2010 (HB 2442), officials from **St. Louis County** stated the overall fiscal impact to Justice Services would be favorable. The cost benefit would be the potential for persons to be on Electronic Home Detention (EHD) as opposed to being in jail and the associated cost. However, a need would exist to hire an additional case manager to monitor persons on EHD as the number of persons on EHD increases. Reimbursement by the person on EHD and by the state would be critical to keeping the fiscal impact more manageable.

Officials from the **Department of Corrections (DOC)** state the bill proposes to allow for house arrest with electronic monitoring (EMP) or shackling for certain nonviolent offenders and requires the reimbursement of the total cost of house arrest by the state in certain cases.

If this bill is passed as law, Sheriffs would be able to place nonviolent offenders on house arrest via EMP or shackling as an alternative to confinement in jail. In cases where the state is determined to be liable for cost, the state would be required to provide counties the reimbursement for total cost of the house arrest or shackling. The state currently reimburses counties for housing offenders in certain circumstances. It is unknown how many offenders to which this would apply and what the reimbursement expenditure would be.

There is a concern for bailable vs. non-bailable language in proposed §544.455.9 as it relates to DOC in calculating jail-time credit pursuant to §558.031., RSMo. It states that a "person shall receive credit toward the service of a sentence of imprisonment for all time in prison, jail, or custody after the offense occurred and before the commencement of the sentence ..." yet precedence holds that when a defendant is under house arrest while out on bond, he is not "in prison, jail or custody" and therefore is not entitled to credit toward his sentence for that time.

In summary, the fiscal impact for the DOC is a negative unknown per each year.

According to the Section 221.105, the Department of Corrections must reimburse a county for the actual cost of housing a prisoner, up to \$37.50 per day. The appropriation for this reimbursement to the county level from the Department of Corrections totaled \$38,060,616 for

ASSUMPTION (continued)

the current budget year (Section 9.265 of HB 2009), \$43,060,616 for FY 2010 and \$43,060,616 again in FY 2009. Oversight assumes the proposal could result in a net savings to the state if reimbursement for the cost of house arrest with electronic monitoring would be lower than the reimbursement rate for jail confinement. The legislation does not state what the reimbursement rate will be for the electronic monitoring; however, Oversight assumes the rate will be lower than the rate for jail. Therefore, Oversight will assume the proposal could result in net unknown savings to the General Revenue Fund. Oversight is also unsure of how many such offenders would be sentenced to house arrest under the new program.

Oversight assumes the proposal would not have a fiscal impact to counties since they can receive reimbursement from the state for either jailed confinement under the current statutes or under the new option of house arrest with electronic monitoring under this new program

Officials from the **Office of Prosecution Services, Barry County, Butler County, Clay County, Greene County, Platte County, Buchanan County Sheriff's Department** and **Platte County Sheriff Department** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Savings</u> - Department of Corrections			
Nonviolent offenders sentenced to house arrest with electronic monitoring which is assumed to be reimbursed at a less expensive rate than jail confinement	Unknown	Unknown	Unknown
<u>Costs</u> - Department of Corrections			
Cost for the state to reimburse counties for house arrest via EMP or shackling	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Local Government

FY 2012
(10 Mo.)

FY 2013

FY 2014

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding house arrest for certain offenders with electronic monitoring or shackling. In its main provisions, the bill:

- (1) Allows a judge to place any offender ordered to be confined in the county jail for a nonviolent offense, whether before, during, or after trial, on house arrest as an alternative to jail confinement (Section 221.025, RSMo);
- (2) Requires the governing body of any county and the City of St. Louis to establish the amount to be expended for the cost of incarceration of prisoners on house arrest; requires the sheriff or the facility superintendent to certify to the circuit clerk of the county or the chief executive officer of the city the number of days a prisoner accused of a nonviolent offense remained on house arrest; and requires the county commission or the facility superintendent to supply the cost per diem for prisons and for house arrest. If a court or judge places a person accused of a nonviolent offense on house arrest in any case where the state is determined to be liable for the costs, the state must provide reimbursement for the total cost of the house arrest program for that individual (Section 221.105);
- (3) Specifies that any person charged with a bailable nonviolent offense who does not post bail prior to his or her appearance before a judge may be placed on house arrest (Section 544.455); and
- (4) Allows a court to order a defendant who pleads guilty to or is found guilty of a nonviolent offense and sentenced to imprisonment or a period of detention in a county jail as a condition of probation to be placed on house arrest in lieu of any or all of the ordered period of confinement. The court may also order that in a particular case or with certain types of offenses a defendant cannot be placed on house arrest by the sheriff (Section 557.011).

FISCAL DESCRIPTION (continued)

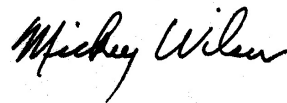
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator
Department of Corrections
Department of Public Safety
Boone County Sheriff
St. Louis County

NOT RESPONDING:

Office of Prosecution Services
Barry County
Butler County
Clay County
Greene County
Platte County
Buchanan County Sheriff
Platte County Sheriff



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Director
February 22, 2011